



SCHOOL BUS, INC.

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DEPARTMENT OF EDUCATION "POINT OF CONTACT" **NOVEMBER 2006 NEWSLETTER**

HHS Publishes Head Start Waiver Rule

This week the Department of Health and Human Services published the final rule allowing Head Start grantees to apply for waivers from the requirements to transport all Head Start children in child safety restraint systems and to provide adult monitors on all buses. This rule extends indefinitely the temporary waiver program that has been in place for the past year. The agency was directed by Congress to enact the waiver program in response to concerns that Head Start programs which coordinate transportation with school districts or transit agencies could not feasibly meet the requirements. The agency declined to eliminate the requirements altogether, as requested in some of the comments they received.

The final rule amends the definition of child safety restraint system by eliminating the 50-pound weight limit to reflect changes in NHTSA's definitions. Interestingly, it also clarifies that a lap belt does not qualify as a child safety restraint system. The final rule also codifies the new deadline for the use of school buses or MFSABs as December 30, 2006.

Case Study: **Don't Do This...**

A news story from an Idaho television station offers a study in how not to run a drug and alcohol test program—or a police department, for that matter.

Last March, a school bus driver was arrested and charged with one count of driving under the influence and 23 counts of child endangerment after she showed a blood alcohol level of .16 following her afternoon run. This week, all charges were dropped when prosecutors discovered that the test was unreliable and inadmissible. Now the driver is filing suit demanding compensation for defamation of character plus financial and emotional loss.

According to the report, this is what happened: Someone called the school district and said that the driver's breath smelled like alcohol. When the driver returned from her run, the district's transportation supervisor told her that she had been selected for a random drug test.

There are at least two violations here:

1) Supervisors cannot send drivers for tests based on a third party's observation; they must have direct observation that the driver appears to be under the influence of drugs or alcohol. The supervisor later admitted that he never smelled alcohol on the driver's breath.

2) When one person is deliberately selected for a test, it is not a random test.

3) Given the supervisor's actions, it is likely that he had not received the required training to refer drivers for tests.

The district called their regular drug test administrator, who sent a mobile testing unit to the school. The company administered a breath test, but ignored the driver's statement that she had taken some cough medicine and was sucking a cough drop. The driver's BAC registered .16.

The drug testing company should have known that cough syrup and cough drops can affect alcohol readings. They later acknowledged that the driver informed them about the medicine prior to the test.

The school district fired the driver and notified the police three days later about the test. Police arrested the driver on 24 criminal charges.

How the police could get away with a DUI charge three days after the alleged violation is beyond us.

After seven months, the State Police and prosecutor said that the test was not valid for a criminal action, and dropped the charges.

The transportation supervisor, the school district, the drug testing company, and the police all bungled this incident. The driver may or may not have been innocent, as she claimed all along; but the others are certainly guilty of mismanagement.

Minnesota Incident Shows Importance of Full Tank

Last month a school bus carrying students home from a magnet school in St. Paul rolled backwards down a steep hill and came to rest on the guardrail of an interstate exit ramp. The driver could not stop the bus from rolling. No one was injured in the incident, but the bus owners, school administration, and Minnesota State Patrol were eager to find out what had happened. Inspection of the bus by state inspectors and school bus technicians uncovered no defects; all mechanical and safety systems were fully functional. What the inspectors discovered, though, was that the bus was low on fuel. Apparently the incident occurred because as the bus climbed the hill, the little fuel that was left flowed to the rear of the tank. The engine, unable to draw on the fuel, shut down. When the engine stopped, the power-assist brakes were not available and the driver was unable to stop the bus. This incident serves as a minder of the necessity to follow proper fueling and pre-trip inspection procedures. If someone in the chain decides that it's okay to skip the fill-up "just this once," the consequences could be worse than simply being late to class.

Recalls

Blue Bird Vision equipped with air brakes, manufactured from August 17 through September 5, 2006.

An incorrect fitting was designed into the subassembly for the rear axle brake valve module which does not conform to FMVSS 121, Brake Systems. A standard 90-degree elbow was used where a 90-degree check valve should have been used. In the event of a catastrophic line failure, the emergency brakes will apply without warning, which could result in a crash. Blue Bird will repair the buses at no charge. The recall was expected to begin on Sept. 29.

Mid Bus Guide, manufactured from January 2002 to May 2006, and equipped with Collins 3-passenger seats, Freedman activity seats, or Unistrut track seating with 2-passenger seats. The seats may not have the correct hardware, which means they fail to comply with FMVSS 222. As a result, passengers could sustain serious injuries in the event of a crash. Mid Bus will provide additional hardware and installation instructions to owners. The recall is expected to begin this month. that were anufactured from April 2005

Maxon WL-7 and WL7A Wheelchair Lifts that were manufactured from April 2005 to May 2006 and sold either as original equipment or replacements. Bending occurs on locking bracket attachment and in the ramp extrusion, which fail to conform to the loading requirements of FMVSS 403. No notification and remedy schedule is yet available, but owners may call Maxon at 562-404-6727.

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